

STATE OF VERMONT
PUBLIC SERVICE BOARD

Dig Safe Notice No. 786

In Re: JMP Trucking and Excavating, LLC, Alleged)
Violation of November 17, 2010, as reported by)
FairPoint Communications)

Order entered: 9/13/2011

ORDER RE: NOTICE OF PROBABLE VIOLATION

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to JMP Trucking and Excavating, LLC ("Respondent").
2. Incident Date: November 17, 2010
3. Incident Location: 26 Rockingham St., Bellows Falls, VT
4. Name and Address of Company that Reported the Incident to the Department: FairPoint Communications, 55 West Street, Rutland, VT 05701
5. Date Incident Reported to Effected Utility: November 22, 2010
6. Date NOPV issued by Department: June 24, 2011 (#1989)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 11/10/10, the Town of Rockingham made a notice of excavation activities to Dig Safe System Inc. JMP Trucking and Excavating was the contractor at the site doing the excavation. FairPoint accurately located and marked its underground facility in the area of the proposed excavation. The paint marks were clearly visible at the time of excavation. JMP Trucking and Excavating used a backhoe within 18" of the marks and struck a FairPoint conduit. This digging resulted in a 400 pair wire being damaged and a subsequent loss of service to customers for 2 hours. JMP Trucking and Excavating left a message for an off duty FairPoint technician regarding the damaged facility. The Department of Public Service issued 0 Notices of Probable Violation (NOPV's) to JMP Trucking and Excavating during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006b
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Three Hundred Dollars (\$300.00), and attendance at a Department-approved underground damage prevention seminar.
10. The Respondent has agreed to take the remedial action(s) recommended by the Department.¹

Conclusion and Order

Because the Respondent has not contested the NOPV, or the allegations therein, we conclude that the remedial action proposed in the NOPV is appropriate, and should be imposed.²

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

(1) Within thirty days of the date of this Order, JMP Trucking and Excavating, LLC, shall pay a civil penalty in the amount of Three Hundred Dollars (\$300.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701; and

(2) JMP Trucking and Excavating, LLC, shall attend an Underground Damage Prevention Seminar at such time and place as determined by the Vermont Department of Public Service.

1. *See*, Respondent's filing of 7/20/11.

2. *See*, Public Service Board Rule 3.807(G).

Dated at Montpelier, Vermont, this 13th day of September, 2011.

<u>s/ James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/ David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/ John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: September 13, 2011

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.